

WEST VIRGINIA LEGISLATURE

2020 REGULAR SESSION

Originating

House Bill 4600

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AND EVANS

[Originating in the Committee on Pensions and
Retirement; Reported on January 28, 2020.]

1 A BILL amend and reenact §8-22-26 of the Code of West Virginia, 1931, as amended, relating to
2 the definition of the term member for the purpose of distributing premium tax proceeds
3 through the Municipal Pensions Security Fund to municipal policemen's and firemen's
4 pension and relief funds.

Be it enacted by the Legislature of West Virginia:

§8-22-26. Death benefits.

1 (a) In case:

2 (1) Any member of a paid police or fire department who has been in continuous service
3 for more than five years dies from any cause other than as specified in subsection (b) of this
4 section before retirement on a disability pension under the provisions of, prior to July 1, 1981,
5 section twenty-four of this article, or after June 30, 1981, ~~sections twenty-three-a and twenty-four~~
6 ~~of this article~~ §8-22-23a and §8-22-24 of this code, or a retirement pension under the provisions
7 of subsection (a) or both subsections (a) and (b), ~~section twenty-five of this article~~ §8-22-25(a) or
8 §8-22-25(a) and §8-22-25(b) of this code, leaving in either case surviving a spouse, or any
9 dependent child or children under the age of eighteen years, or dependent father or mother or
10 both, or any dependent brothers or sisters or both under the age of eighteen years, or any
11 dependent child over the age of eighteen years of age who is totally physically or mentally
12 disabled so long as such condition exists; or

13 (2) Any former member of any such department who is on a disability pension prior to July
14 1, 1981, under section twenty-four of this article, or after June 30, 1981, under ~~sections twenty-~~
15 ~~three-a and twenty-four of this article~~ §8-22-23a and §8-22-24 of this code, or is receiving or is
16 entitled to receive retirement pension benefits under the provisions of ~~subsection (a) or both~~
17 ~~subsections (a) and (b), section twenty-five of this article~~ §8-22-25(a) or §8-22-25(a) and §8-22-
18 25(b) of this code, dies from any cause other than as specified in subsection (b) of this section
19 leaving in either case surviving a spouse or any dependent child or children under the age of
20 eighteen years or dependent father or mother or both, or any dependent brothers or sisters or

both under the age of eighteen years, or any dependent child over the age of eighteen years of age who is totally physically or mentally disabled so long as such condition exists; then in any of the cases set forth ~~above~~ in subdivisions (1) and (2) of this subsection, the board of trustees of such pension and relief fund shall, immediately following the death of ~~such~~ the member, pay to or for each ~~of such~~ entitled surviving dependents the following pension benefits: To ~~such~~ the surviving spouse, until death or remarriage, a sum per month equal to sixty percent of ~~such~~ the member's pension or, in the event ~~such~~ the member was not receiving a pension at the time of ~~his~~ the member's death, a sum per month equal to sixty percent of the monthly retirement pension such member would have been entitled to receive pursuant to ~~section twenty-five of this article~~ §8-22-25 of this code on the date of ~~his~~ the member's death if ~~such~~ the member had then been eligible for a retirement pension ~~thereunder~~, or the sum of \$300 per month, whichever is greater; to each ~~such~~ dependent child, a sum per month equal to twenty percent of ~~such~~ the member's pension or, in the event ~~such~~ the member was not receiving a pension on the date of ~~his~~ the member's death, a sum per month equal to twenty percent of the monthly retirement pension ~~such~~ the member would have been entitled to receive pursuant to ~~section twenty-five of this article~~ §8-22-25 of this code on the date of ~~his~~ the member's death if ~~such~~ the member had then been eligible for a retirement pension ~~thereunder~~, or until ~~such~~ the child attains the age of eighteen years or marries, whichever first occurs; to each ~~such~~ dependent orphaned child, a sum per month equal to twenty-five percent of ~~such~~ the member's pension or, in the event ~~such~~ the member was not receiving a pension at the time of ~~his~~ the member's death, a sum per month equal to twenty-five percent of the monthly retirement pension ~~such~~ the member would have been entitled to receive pursuant to ~~section twenty-five of this article~~ §8-22-25 of this code on the date of ~~his~~ the member's death if ~~such~~ the member had then been eligible for a retirement pension ~~thereunder~~, until ~~such~~ the child attains the age of eighteen years or marries, whichever first occurs; to each ~~such~~ dependent orphaned child, a sum per month equal to twenty-five percent of ~~such~~ the member's pension or, in the event ~~such~~ the member was not receiving a pension on the date of

47 ~~his~~ the member's death, a sum per month equal to twenty-five percent of the monthly retirement
48 pension ~~such~~ the member would have been entitled to receive pursuant to ~~section twenty-five of~~
49 ~~this article~~ §8-22-25 of this code on the date of ~~his~~ the member's death if ~~such~~ the member had
50 then been eligible for a retirement pension ~~thereunder~~, until ~~such~~ the child attains the age of
51 eighteen years or marries, whichever first occurs; to each ~~such~~ dependent father or mother, a
52 sum per month for each equal to ten percent of ~~such~~ the member's pension or, in the event ~~such~~
53 the member was not receiving a pension on the date of ~~his~~ the member's death, a sum per month
54 equal to ten percent of the monthly retirement pension ~~such~~ the member would have been entitled
55 to receive pursuant to ~~section twenty-five of this article~~ §8-22-25 of this code on the date of ~~his~~
56 the member's death if ~~such~~ the member had then been eligible for a retirement pension
57 ~~thereunder~~; to each ~~such~~ dependent brother or sister, the sum of \$50 per month until ~~such~~
58 ~~individual~~ he or she attains the age of eighteen years or marries, whichever first occurs, but in no
59 event shall the aggregate amount paid to ~~such~~ all brothers and sisters of the member exceed
60 \$100 per month. If at any time, because of the number of dependents, all ~~such~~ dependents cannot
61 be paid in full as herein provided, then each dependent shall receive his or her pro rata share of
62 ~~such~~ the payments. In no case shall the payments to the surviving spouse and children be cut
63 below sixty-five percent of the total amount paid to all dependents.

64 (b) The surviving spouse, child or children, or dependent father or mother, or dependent
65 brothers or sisters, of any ~~such~~ member who dies by reason of service rendered in the
66 performance of ~~such~~ the member's duties shall, regardless of the length of ~~such~~ the member's
67 service and irrespective of whether ~~such~~ the member was or was not entitled to receive, or was
68 or was not receiving, disability pension or temporary disability payments at the time of ~~his~~ the
69 member's death, receive the death benefits provided for in subsection (a) of this section. If ~~such~~
70 the member had less than three years' service at the time of ~~his~~ the member's death, the
71 member's pension shall be computed on the basis of the actual number of years of service.

72 (c) If a member dies without leaving a spouse, dependent child or children, or dependent
73 father or mother, or dependent brothers or sisters, ~~his~~ the member's contributions to the fund plus
74 six percent interest shall be refunded to ~~his~~ the member's named beneficiary or, if no beneficiary
75 has been named, to ~~his~~ the member's estate to the extent that ~~such~~ the contributions plus interest
76 exceed any disability or retirement benefits that ~~he~~ the member may have received before ~~his~~ the
77 member's death.

78 (d) The provisions of this section shall not be construed as creating or establishing any
79 contractual or vested rights in favor of any individual who may be or become qualified as a
80 beneficiary of the death benefits ~~herein~~ authorized to be made, ~~all~~ pursuant to this section. All
81 the provisions ~~hereof~~ of this section and benefits provided for ~~hereunder being~~ pursuant to this
82 section are expressly subject to ~~such~~ subsequent legislative enactments as may provide for any
83 change, modification or elimination of the beneficiaries or benefits specified herein.

84 (e) Notwithstanding the provisions of ~~section twenty-four of this article~~ §8-22-24 of this
85 code, the benefit provided for in this section shall be calculated as if the member had remained
86 unemployed throughout any period of disability.

87 (f) For the purpose of distributing premium tax proceeds as required by §33-3-14d of this
88 code, one beneficiary of the death benefit authorized by this section shall be included in the
89 average monthly number of retired police officers and firefighters.

NOTE: The purpose of this bill is to include a retirant beneficiary in calculating the distribution of insurance premiums for municipal policemen's or firemen's pension and relief funds.

Strike-throughs indicate language that would be stricken from a heading or the present law and underscoring indicates new language that would be added.